

PATENT
Attorney Docket No. 42027

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: JOHN J. WILLIAMS, JR. ET AL.

US Patent 7,627,573, issued December 1, 2009

Application No. 10/630,178, filed July 29, 2003

Confirmation No. 7658

Title: BYPASSING NATIVE STORAGE OPERATIONS BY COMMUNICATING PROTECTED DATA WITHIN LOCKING MESSAGES USING A LOCK MANAGER INDEPENDENT OF THE STORAGE MECHANISM

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA) STATED
IN THE DECISION ON REQUEST FOR RECALCULATION OF PTA IN VIEW OF WYETH...**

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request the office reconsider its determination of the PTA. Applicants in the most part agree with the Office's calculation. However, Applicants respectfully dispute the reduction of the PTA by 119 days due to the Comments on Notice of Allowability filed by Applicants on August 5, 2009, to correct typographical errors in the Notice of Allowance (i.e., in the Examiner's Amendment included therewith). Such comments are not considered by the Office as a failure to engage in reasonable efforts to conclude prosecution per MPEP § 2732, page 2700-21, left column ("(6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;""). Therefore, Applicants respectfully submit that the PTA should be 957 days (which equals 838 plus 119 days). Applicants respectfully request the Office correct the PTA to be 957 days in the Certificate of Correction that the Office has stated that it intends to issue for the above-referenced issued patent.

In re JOHN J. WILLIAMS, JR. ET AL., US Patent 7,627,573
Request For Reinstatement Of Reduced PTA

The following is presented in list format to supplement the previous discussion. The Decision on Request for Recalculation of PTA in View of Wyeth... states that Applicants should include in this request the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(3).

(1) Applicants have paid the fee required by 37 CFR 1.18(3) via EFS-Web contemporaneously with the submission of this paper.

(2) Applicants believe the correct PTA is at least 957 days, and request the Office correct the determined PTA.

- a) Applicants do not dispute the Office's determination of the PTA of 410 and 680 days due to Office delays as shown in PAIR.
- b) Applicants do not dispute the Office's determination of reduction of the PTA by 133 days (i.e., 61+27+30+15) as shown in PAIR.
- c) Therefore, Applicants submit that the PTA delay should be $410+680-133 = 957$.
- d) Applicants respectfully dispute the reduction of PTA by 119 days due to the submission to correct errors in the Notice of Allowance, which is shown next to the PAIR entry: 08-05-2009 - Miscellaneous Incoming Letter.
- e) Finally for completeness, Applicants further request, if any, additional PTA accrued pursuant to §§ 1.702(a)(4) and/or 1.702(b), or any other source.

Additionally, Applicants are including on the following three pages of this submission:

1. a marked-up copy of the PTA printout from PAIR, which may help the Office understand Applicants' request presented herein; and
2. a copy of the paper filed on 08-05-2009 (downloaded from PAIR) illustrating that its subject matter should not reduce PTA.

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DOWNLOADED FROM PAIR 05-07-2010, and Annotated

Page 1 of 3

10/811,044	BYPASSING NATIVE STORAGE OPERATIONS BY COMMUNICATING PROTECTED DATA WITHIN LOCKING MESSAGES USING A LOCK MANAGER INDEPENDENT OF THE STORAGE MECHANISM	04-25- 2010::16:13:44
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/811,044			
Filing or 371(c) Date:	03-27-2004	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	12-01-2009	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total PTA (days):	838
USPTO Adjustment(days):	-	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
04-17-2010	Petition Decision - Granted		
03-15-2010	Petition Entered		
02-05-2010	Post Issue Communication - Certificate of Correction		
12-01-2009	Recordation of Patent Grant Mailed		
11-11-2009	Issue Notification Mailed		
12-01-2009	PTA 36 Months	680	
12-01-2009	Patent Issue Date Used in PTA Calculation		
10-23-2009	Dispatch to FDC	↑	
10-23-2009	Application Is Considered Ready for Issue	↑	
10-21-2009	Issue Fee Payment Verified	↑	
10-21-2009	Issue Fee Payment Received	↑	
08-27-2009	TC Return to Pubs	↑	
08-27-2009	Mail Miscellaneous Communication to Applicant	↑	
08-26-2009	Miscellaneous Communication to Applicant - No Action Count	↑	
08-11-2009	Pubs Case Remand to TC	↑	
08-05-2009	Response to Reasons for Allowance	↑	
08-05-2009	Miscellaneous Incoming Letter	119	
07-24-2009	Document Verification	↑	
07-24-2009	Notice of Allowance Data Verification Completed	↑	
06-08-2009	Examiner Interview Summary Record (PTOL - 413)	↑	
07-24-2009	Examiner's Amendment Communication	↑	
06-03-2009	Date Forwarded to Examiner	↑	
06-04-2009	Mail Appeals conf. Reopen Prosec.	↑	
06-03-2009	Pre-Appeals Conference Decision - Reopen Prosecution	↑	
05-18-2009	Request for Pre-Appeal Conference Filed	↑	
05-18-2009	Notice of Appeal Filed	↑	
05-18-2009	Request for Extension of Time - Granted	15	
02-03-2009	Mail Final Rejection (PTOL - 326)	↑	
01-31-2009	Final Rejection	↑	
11-18-2008	Date Forwarded to Examiner		

WRONG

In re JOHN J. WILLIAMS, JR. ET AL., US Patent 7,627,573
Request For Reinstatement Of Reduced PTA

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08/05/2009 09:36 FAX 303 778 0748 Kirk D Williams + USPTO Issue Fee 001/002 *JH2*

U.S. PATENT & TRADEMARK OFFICE
AUG 05 2009
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: John J. WILLIAMS JR ET AL.
Application No. 10/811,044
Confirmation No. 9536
Filed: March 27, 2004

For: Bypassing Native Storage Operations
By Communicating Protected Data
Within Locking Messages Using a
Lock Manager Independent of the
Storage Mechanism

Attorney Docket No. 42027
Group Art Unit: 2165
Examiner: HICKS, Michael J

CERTIFICATE OF MAILING OR TRANSMISSION
I hereby certify that this paper is being deposited with the United States Postal Service on the date shown with sufficient postage as first class mail in an envelope addressed to: Mail Stop ISSUE FEE, Commissioner For Patents, PO Box 1450, Alexandria VA 22313-1450, or being electronically transmitted to the USPTO, 571-273-2883 on August 5, 2009.
Kirk D. Williams, Esq.

COMMENTS ON NOTICE OF ALLOWABILITY
Mail Stop ISSUE FEE
Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Allowance and Fee(s) Due mailed July 24, 2009, there are three errors in the Examiner's amendments, as discussed hereinafter. Note, Applicants confirmed that these were in fact errors with Examiner Hicks in a brief telephone conversation on Aug. 5, 2009.

1. On page 2, the second paragraph labeled "a)": Instead of "In Line 10 of Claim 1", the amendment should be "In Line 1 of Claim 8".
2. On page 2, the paragraph labeled "c)" amending line 1 of Claim 8 should be deleted, as to which no such amendment was agreed, and the amendment doesn't make sense for claim 8. It appears to be a cut & paste typographical error.
3. On page 4, the paragraph labeled "p)" should amend line 3, not line 103.

PAGE 1/2 * RCVD AT 8/5/2009 12:38:23 PM (Eastern Daylight Time) * SVR:USPTO-EPXRF-6/9 * DNI#2732885 * CSD#303 778 0748 * DURATION (min:sec):00:44

In re JOHN J. WILLIAMS, JR. ET AL., US Patent 7,627,573
Request For Reinstatement Of Reduced PTA

DOWNLOADED FROM PAIR 05-07-2010

08/05/2009 09:37 FAX 303 778 0748	Kirk D Williams	→ USPTO Issue Fee 002/002
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In re John J. WILLIAMS JR ET AL.
Application No. 10/811,044

Applicants believe no fee is due in connection with these comments, however, the
Commissioner is hereby authorized to charge any fee associated with this paper to Deposit
Account No. 501430.

Date: August 5, 2009 By 

Kirk D. Williams, Reg. No. 42,229
One of the Attorneys for Applicants
CUSTOMER NUMBER 26327
The Law Office of Kirk D. Williams
PO Box 39425, Denver, CO 80239-0425
303-282-0151 (telephone), 303-778-0748 (facsimile)

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PAGE 2/2 * RCVD AT 8/5/2009 12:38:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DN10:2732685 * C810:303 778 0748 * DURATION (mm:ss):00:44

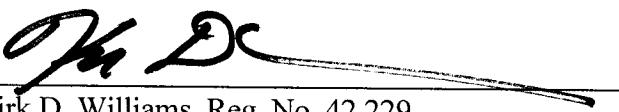
In re JOHN J. WILLIAMS, JR. ET AL., US Patent 7,627,573
Request For Reinstatement Of Reduced PTA

Applicant believes no additional fees are due with this paper beyond the payment of the fees via EFS-Web, but authorizes the Commissioner to charge any fees due with this communication, or credit any amount being refunded, to Deposit Account No. 501430.

Respectfully submitted,
The Law Office of Kirk D. Williams

Date: May 7, 2010

By



Kirk D. Williams, Reg. No. 42,229
One of the Attorneys for Applicant
The Law Office of Kirk D. Williams
(USPTO Customer Number 26327)
PO Box 61538, Denver, CO 80206-8538
303-282-0151 (telephone), 303-778-0748 (facsimile)